**STATE OF RHODE ISLAND**

**PROVIDENCE, SC.** **SUPERIOR COURT**

**(FILED: July 21, 2023)**

| | | |
|---|---|---|
| **STATE OF RHODE ISLAND** | : | |
| | : | |
| **VS.** | : | **P1-2022-1873AG** |
| | : | |
| **NATHAN COOPER** | : | |

## DECISION

**KRAUSE, J.** On May 15, 2023, a jury convicted Nathan Cooper of second-degree murder. He claims he is entitled to a new trial because (1) there was legally insufficient evidence to demonstrate proof that he harbored the requisite intent to commit that murder; (2) that the weight of the evidence did not support a second-degree murder conviction; and (3) that this Court erred in denying his pretrial motion to suppress evidence when the police entered the defendant's residence without a warrant.

The Court disagrees.

* * *

A defendant may seek a motion for a new trial under Rule 33 of the Superior Court Rules of Criminal Procedure on alternative theories: (1) that the weight of the evidence was not adequate to convict him; or (2) that the evidence was legally insufficient to support his conviction. *State v. Fleck*, 81 A.3d 1129, 1133 (R.I. 2014), *State v. Clark*, 974 A.2d 558, 569 (R.I. 2009). Those two methods involve entirely different analyses:

> "[W]hen a defendant argues that the evidence was *legally insufficient* to serve as the basis for conviction, the trial justice does not weigh the evidence or the credibility of the witnesses, examining it instead in the light most favorable to the prosecution . . . To deny the motion, the trial justice need only decide that any rational trier of fact could have found that the prosecution established the elements of the crime beyond a reasonable doubt.

> "On the other hand, a motion for a new trial based on *the weight of the evidence* requires that the trial justice act as a thirteenth juror, exercising independent judgment on the credibility of witnesses and on the weight of the evidence." *Fleck*, 81 A.3d at 1133 (internal citations and quotation marks omitted; emphasis added).

**Weight of the Evidence**

Through the weight-of-the-evidence lens, the trial justice initially focuses on three points. Acting as a so-called "thirteenth juror," the court (1) considers the evidence in light of the jury charge, (2) independently assesses the credibility of the witnesses and the weight of the evidence, and then (3) determines whether the court would have reached a different result. If, from the image generated, the trial judge concurs with the verdict, the analysis is over, and the verdict will be affirmed.

A fourth analysis is required only if the court disagrees with the verdict. Even then, if the trial justice concludes that the evidence and the reasonable inferences therefrom are so nearly balanced that reasonable minds could differ, the motion still must be denied. The motion has legs only if the court's disagreement with the jury's decision outweighs that balanced appraisal such that the verdict is against the fair preponderance of the evidence and fails to do substantial justice. *See State v. Silva*, 84 A.3d 411, 416–17 (R.I. 2014); *State v. DiCarlo*, 987 A.2d 867, 870 (R.I. 2010).

* * *

The defendant shot Sherbert Maddox, his professed girlfriend, in her left chest as she was showering. He says that the shooting was merely an accident; or, alternatively, that even if he was criminally responsible, the offense amounted to no more than involuntary manslaughter.

The jurors were offered choices of first-degree or second-degree murder, as well as involuntary manslaughter. Second-degree murder, in the context of this case, required proof of a

momentary intent to kill with malice. *See State v. Gillespie*, 960 A.2d 969, 976 and n.5 (R.I. 2008); *State v. Texieira*, 944 A.2d 132, 142 n.13 (R.I. 2008). Manslaughter, generally speaking, is the unintentional killing of another person without malice. *State v. Fetzik*, 577 A.2d 990, 995 (R.I. 1990). Involuntary manslaughter is a homicide committed with criminal negligence. *State v. Robat*, 49 A.3d 58, 79 n.22 (R.I. 2012); *State v. Diaz*, 46 A.3d 849, 864 (R.I. 2012).[1] The jurors were also offered a fourth option: not guilty if the shooting was an accident. They settled on second degree murder, and this Court agrees with that determination.

Despite Cooper's attempt to tone down his dark relationship with Ms. Maddox, the evidence disclosed a vengeful and an entirely unsafe liaison. His conduct was explosive, with a cruel and venomous side, and he expressed intense animosity in multiple text messages. After shooting her, he sent his friend James Myrick a message in which he called her "a piece of shit" who had ruined his life.

[1] In accordance with *State* and *Diaz*, the Court explained "criminal negligence" to the jury as follows:

> "Criminal negligence means more than just mere or ordinary negligence, which is frequently the subject of law suits in civil cases. Whether a defendant's actions are merely negligent or whether his conduct rises to the level of criminal negligence is a matter of degree under all of the circumstances present. If harm has resulted merely from a failure to use the care which a reasonably prudent person would have used under the circumstances, then that harm has resulted from ordinary negligence, and the defendant cannot be held criminally liable.
>
> "It is not criminal negligence unless the defendant's conduct was a gross deviation from the standard of care that a reasonable person would have observed under the same circumstances. In order to find criminal negligence, you must find more than simply a mistake in judgment by the defendant. What you must be persuaded of is that the defendant's conduct was such a departure from what would have been the conduct of an ordinarily prudent or careful person under the same circumstances as to be incompatible with a proper regard for life; or, in other words, a disregard for human life or a reckless indifference to the consequences of his actions."

In January of 2020, Cooper texted his nephew and acknowledged that he had "choked her ass." During cross-examination, Cooper conceded that in October of 2021 he sent a friend messages in which he called her "just [the] community pussy, a pig, and a liar, and the worst chick I've ever ran [*sic*] into in my life," "doing tricks for crumbs." He characterized her as a thief, who interfered with a "hustle" he was conducting, and disparaged her as the "biggest slut I ever encountered" and a "crack whore."

He warned that he didn't know "how much longer I can hold my anger" and wrote that he had already "fucked her up" after she had swung a bottle at him, and he concluded one message with a prophetic flourish: "I swear on my mother this ain't going to end well." Collectively, those messages unquestionably reflect a malicious design to harm, not at all an accidental homicide.

The defendant's explanation of the shooting also does not square with the medical examiner's analysis. Dr. Patricia Ogera testified that the trajectory of the bullet was left to right, and downward. The defendant demonstrated that he was standing perpendicular to the shower curtain (his left side closer). He said that Ms. Maddox splashed him with water when he passed her a lit marijuana cigarette (peculiar conduct during a shower and, frankly, a dubious explanation in this Court's opinion). He said that when he raised his right hand, which held the gun, to wipe his face, it simply discharged. When the defendant demonstrated that purported reaction, the gun was pointing upward when he said it discharged, not downward, which was entirely inconsistent with the trajectory described by Dr. Ogera.

Furthermore, Emilio Alvarado, a firearm expert, testified that the gun required about 10.5 pounds of pressure to pull the trigger. In other words, this was not a gun with a "hair trigger" and was not likely to be fired merely by accident. Cooper's explanation that this double action revolver just "went off" is simply not credible.

Also unacceptable was his testimony that he found the gun in the bathroom. By his own admission, he said that he carried the gun every day and wherever he went. On this day he also must have carried it home. The credible evidence is that the defendant, not Ms. Maddox, brought the gun into the bathroom while she was showering. Most notably, Cooper's DNA was on the gun, not hers.

Cooper's professed "accidental" version of events also seems antithetical to what a reasonable, prudent person's reaction would have been under those circumstances. *See* footnote 1, *supra*. He conceded that there was a cell phone in the bathroom within arm's reach. The defendant had previously not been hesitant or reluctant to call 911 for much less serious events. He had dialed 911, for example, when he had hurt his back, on another occasion for some rectal bleeding, and for Ms. Maddox on New Year's Day for another incidental issue. But, as Ms. Maddox lay fatally bleeding from an alleged accidental gunshot, and with a phone immediately at hand, Cooper ignored the 911 option and knocked on a neighbor's door instead.

Additionally, during the next days, the defendant did nothing which in any way reflects that he had accidentally shot Ms. Maddox. He continued, instead, to indulge in drugs and summoned his friend Myrick to bring him shrink wrap, with which he wrapped her corpse, along with blankets, clothes, and other items, including a pair of blue latex gloves. Cooper testified that he never used the gloves, but, like the firearm, only his DNA was on them. In that shroud, he also placed a note with the telling sentiment, "I don't trust you."

* * *

When all of the foregoing is coupled with Cooper's delusive testimony, there was no way any fair-minded factfinder could have concluded that Ms. Maddox's death resulted from an accident, much less criminal negligence.

"When a defendant in a criminal case elects to testify on his own behalf, he can expect rigorous cross-examination from the prosecution that may well serve as the final persuasive factor convincing the jury of his guilt." *State v. Lopez*, 149 A.3d 459, 464 (R.I. 2016); *see United States v. Cintolo*, 818 F.2d 980, 989 (1st Cir. 1987) ("The jury was reasonably entitled to disbelieve [defendant's] testimony regarding his motives and to credit the (entirely plausible) contrary interpretation urged by the government."). In *State v. Mattatall*, 603 A.2d 1098, 1109 (R.I. 1992), the Court said:

> "[W]hen a defendant elects to testify, he runs the very real risk that if disbelieved, the trier of fact may conclude that the opposite of his testimony is the truth . . . [a]s long as there exists some other evidence of the defendant's guilt [and there is ample here], disbelief of a defendant's sworn testimony is sufficient to sustain a finding of guilt . . . 'A trier of fact is not compelled to accept and believe the self serving stories of vitally interested defendants. Their evidence may not only be disbelieved, but from the totality of the circumstances, including the manner in which they testify, a contrary conclusion may be properly drawn.'"[2] (Internal quotations omitted.)

Although Cooper disputes this Court's attribution of little or no truth to his dissembling narrative, it is settled that, while credibility issues are earmarked exclusively for the factfinders at trial, they are the principal domain of the trial court when considering a motion for a new trial. *See State v. LaPointe*, 525 A.2d 913, 914 (R.I. 1987). '"The mere fact that [a] defendant disagrees with the trial justice's conclusions about credibility is not a sufficient basis to warrant the granting of a

[2] *Accord, State v. Robat*, 49 A.3d 59, 81, n.25 and 26 (R.I. 2012); *State v. Abdullah*, 967 A.2d 469, 480 (R.I. 2009) (observing that the trial judge "correctly noted that because evidence of defendant's guilt existed, disbelief of [his] own testimony was sufficient to sustain a guilty verdict"); *State v. Horton*, 871 A.2d 959 (R.I. 2005) (trial judge used defendant's admissions at trial as a means of supplementing defendant's independent evidence of guilt, despite his assertions of innocence); to the same effect *see State v. Offley*, 131 A.3d 663, 675 (R.I. 2016) and *State v. Smith*, 39 A.3d 669, 674 (R.I. 2012).

motion for new trial."' *State v. Lopez*, 129 A.3d 77, 86 (R.I. 2016) (quoting *State v. Rivera*, 987 A.2d 887, 903 (R.I. 2010); *accord, State v. Gomez*, 116 A.3d 216, 224 (R.I. 2015).

Having carefully considered the evidence and testimony at trial, this Court, as a front row observer, is well satisfied that the considerable weight of the evidence fully justified finding the defendant guilty of second-degree murder.

**Legally Sufficient Evidence**

Cooper also claims that he is entitled to a new trial because the evidence is legally insufficient to convict him. His motion fails on that ground as well.

The test for a motion on that basis invites a calibration which differs markedly from the weight-of-evidence evaluation. When appraising the legal sufficiency of the evidence, the trial court does not gauge the weight of the evidence nor the credibility of the witnesses. Instead, the court assesses the evidence illuminated in the light most favorable to the state and decides whether any rational factfinder could conclude that it establishes the elements of the crime beyond a reasonable doubt. *Fleck*, 81 A.3d at 1133–34.

This Court has consistently adopted the prescript that credibility choices are "quintessentially entrusted" to the province of the jury. *E.g., State v. Yon*, 161 A.3d 1118, 1130 (R.I. 2017), *State v. Virola*, 115 A.3d 980, 992 (R.I. 2015). From its proximate observation post, the Court is firmly of the view that these jurors got it right. *Lopez*, 129 A.3d at 86 (noting the trial justice's vantage point as a front-row observer when considering a motion for a new trial); *accord*, *Yon*, 161 A.3d at 1130; *Virola*, 115 A.3d at 992. No casual observer, and certainly not the attentive jurors in this case, could have accepted Cooper's specious version of events.

Through either lens – the weight-of-the-evidence or the legal sufficiency filter - this verdict was the right one. The defense of accident and a lesser offense of involuntary manslaughter are, in this Court's view, entirely out of the picture.

Ms. Maddox's death was regrettably consistent with the defendant's fatal prophecy that her life "ain't going to end well." He meant what he said, and he intentionally acted upon that imprecation.

The jury's verdict in this case was the correct one, and the defendant's motion for a new trial is denied.[3]

[3] Cooper also attaches his new trial motion to this Court's pretrial ruling denying his pretrial suppression motion. This Court renews its findings and reasons expressed in that ruling and denies the instant motion on that basis as well.

**RHODE ISLAND SUPERIOR COURT**

***Decision Addendum Sheet***

---

| | |
|---|---|
| **TITLE OF CASE:** | **State of Rhode Island v. Nathan Cooper** |
| **CASE NO:** | **P1-2022-1873AG** |
| **COURT:** | **Providence County Superior Court** |
| **DATE DECISION FILED:** | **July 21, 2023** |
| **JUSTICE/MAGISTRATE:** | **Krause, J.** |
| **ATTORNEYS:** | |
| **For Plaintiff:** | **Scott A. Erickson, Esq.**<br>**Ariel Pittner, Esq.** |
| **For Defendant:** | **Kara Hoopis Manosh, Esq.** |